ant from such interference. *Held*, that no injunction should be granted. *Western N. Y. & P. T. Co.* v. *Stillman*, 68 N. Y. Misc. 456.

Recognizing the fact that moving a house differs only in degree from moving anything else, a reasonable use of the highway for such purpose has generally been held to be lawful. *Graves* v. *Shattuck*, 35 N. H. 257. *Contra, Dickson* v. *Kewanee Elec. Light Co.*, 53 Ill. App. 379. It is usual for cities to require a license for the moving of a building. This does not take away the common-law right; it restricts it to those who have satisfied the authorities that their exercise of it will not create a public nuisance. *Hinman* v. *Clarke*, 121 N. Y. App. Div. 105. A street railway franchise does not give an exclusive right to use the streets or any part of them; the company must share them with the public. *Market St. Ry. Co.* v. *Central Ry. Co.*, 51 Cal. 583. It follows that the company, like the public, is subject to occasional reasonable interference with its enjoyment of the streets. As the defendant in the principal case proposed to exercise his right in a way which would not work irreparable harm to the plaintiff, and as the plaintiff's right by franchise was not superior to the defendant's common-law right, the suit of the plaintiff was rightly denied.

INJUNCTIONS — ACTS RESTRAINED — PAYMENT OF SALARY TO ONE ILLEGALLY APPOINTED TO OFFICE. — The defendant was illegally appointed judge by a city council. The plaintiff, a taxpayer, joining the city council as co-defendant, prayed for an injunction restraining the payment of salary to the defendant. *Held*, that the injunction be granted. *Forman* v. *Bostwick*, 139 N. Y. App. Div. 333.

A court of equity has no jurisdiction to determine a question of title to office, since there is an adequate remedy by *quo warranto* proceedings. If there is an independent ground of equity jurisdiction, however, the court will determine the whole matter in issue, even if a question of title is incidentally involved. *Cf. Johnston* v. *Jones*, 23 N. J. Eq. 216. One recognized head of equity jurisdiction is the prevention, at the suit of a taxpayer, of an illegal waste of public moneys. *Merrill* v. *Plainfield*, 45 N. H. 126. But the principal case cannot be supported on that ground. *Burgess* v. *Davis*, 138 Ill. 578. Even where there is a rightful claimant who has been kept out of office by the *de facto* officer, he cannot recover from the city the salary which has been paid under mistake to the actual incumbent. *Coughlin* v. *McElroy*, 74 Conn. 397. Hence there is no waste of public money. The court in the principal case lays emphasis on the fact that no question of fact is in dispute, to go to a jury; but that in itself is of course not enough to give equity jurisdiction.

INNKEEPERS — DUTIES TO TRAVELERS AND GUESTS — WHETHER BAD REPUTATION IS AN EXCUSE FOR REFUSING ENTERTAINMENT. — The plaintiff, a noted professional prize-fighter, was refused accommodations by the defendants, the proprietors of a hotel. The judge charged the jury that it was for them to say whether such a violator of the criminal laws was a reputable person entitled to be admitted to a hotel. *Held*, that the charge was correct. *Nelson* v. *Boldt*, 180 Fed. 779 (Circ. Ct., E. D. Pa.).

For centuries the innkeeper has had a *primâ facie* duty to all travelers to furnish for reward such accommodations as he has. See *Anon.*, Keilw. 50; *Rex* v. *Collins*, Palm. 373. But certain circumstances afford him a justification for refusing entertainment. The same policy which imposes the duty requires him to exclude those whose conduct would render them dangerous to the personal security and comfort of his guests. *Goodenow* v. *Travis*, 3 Johns. (N. Y.) 427. See *Markham* v. *Brown*, 8 N. H. 523; *Queen* v. *Rymer*, 2 Q. B. D. 136. Where one seeks accommodations to engage in an act illegal or *contra bonos mores*, it is of course the innkeeper's duty to refuse him admission. *Curtis* v. *Murphy*, 63 Wis. 4. *Cf. Thurston* v. *Union Pacific R. Co.*, 4 Dill. (U. S.)

321; *Godwin* v. *Telephone Co.*, 136 N. C. 258. But previous lawbreaking is not *per se* a ground for exclusion. See *Coppin* v. *Braithwaite*, 8 Jur. 875; *Lucia* v. *Omel*, 46 N. Y. App. Div. 200. But for the principal case it would seem clear that the law prefers the necessities of one member of the traveling public to the sensibilities of others. *Chicago & N. W. Ry. Co.* v. *Williams*, 55 Ill. 185; *Brown* v. *Memphis & C. R. Co.*, 7 Fed. 51. And in spite of a few *dicta* the mere interest of the public servant should be no excuse, cases apparently *contra* being due to the fact that he need not allow the transaction of business on his premises. *Ford* v. *East Louisiana R. Co.*, 110 La. 414. But see *Jencks* v. *Coleman*, 2 Sumn. (U. S.) 221; *State* v. *Steele*, 106 N. C. 766. Engaged in a public undertaking, he can justify his failure to perform it only on grounds in which the public is interested. The principal case does not satisfy this test.

INSURANCE — CONSTRUCTION OF PARTICULAR WORDS AND PHRASES IN STANDARD FORMS — "THE INSURED" TO FURNISH PROOFS OF LOSS. — A mortgagor took out insurance payable to the mortgagee as his interest might appear. The policy provided that the mortgagee's interest should not be invalidated by any act or neglect of the mortgagor, and that "the insured" should furnish proofs of loss within a certain time. *Held*, that recovery by the mortgagee is not barred by the lack of proofs within the stipulated time. *Heilbrun* v. *German Alliance Insurance Co.*, 44 N. Y. L. J. 627 (N. Y. App. Div., Oct. 1910).

For a discussion of the principles involved, see 23 HARV. L. REV. 311.

INSURANCE — DEFENSES OF INSURER — EXEMPTION CLAUSE. — A fire insurance policy exempted the company from liability for loss caused directly or indirectly by certain causes; or for loss occasioned by or through earthquake. A statute provided that, when a peril is specially excepted in a policy, a loss which would not have occurred *but for* that peril is excepted, although the immediate cause of the loss was a peril not excepted. An earthquake caused a fire which spread to and destroyed the plaintiff's property. *Held*, that the plaintiff can recover on the policy. *Pacific Heating & Ventilating Co.* v. *Williamsburg City Fire Ins. Co. of Brooklyn*, 111 Pac. 4 (Cal.).

If the earthquake clause stood alone the company would not be liable. *Insurance Co.* v. *Boon*, 95 U. S. 117. See *Baker & Hamilton* v. *Williamsburgh, etc. Ins. Co.*, 157 Fed. 280. The court argues, however, that the use of the words "directly or indirectly" before the semicolon, coupled with their omission after it, has narrowed the scope of this exemption. The statute provides a strict rule for the construction of such a clause. The court construes the policy without reference to the statute, and then avoids it by saying that the excepted peril, fire caused by earthquake, never occurred, apparently because the fire did not originate on the plaintiff's premises. But where the excepted peril was fire from explosion, the United States Supreme Court held that it had occurred even though the explosion occurred and the fire originated in another building than the one insured. *Insurance Co.* v. *Tweed*, 7 Wall. (U. S.) 44. In an action on a similar policy it was held that the omission of "directly or indirectly" after the semicolon had waived the benefit conferred by the statute. *Williamsburgh, etc. Ins. Co.* v. *Willard*, 164 Fed. 404. The interpretation seems extreme.

INSURANCE — EMPLOYERS' LIABILITY INSURANCE — "INJURIES ACCIDENTALLY SUFFERED." — An employee contracted glanders while on duty, owing to the fault of his employer, and recovered damages from him. The employer held an employers' liability insurance policy, covering loss "for damages on account of bodily injuries accidentally suffered by employees of assured while on duty." *Held*, that the employer can recover from the insurance company